IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLIATION NO.1307/06

Mahavir Shantilal Chopda .... Applicant

V/s.

The State of Maharashtra .... Respondent

Ms.Shubhada Khot Adv. for the applicant.
Miss.Rajeshree Gadhavi APP for the State.

CORAM : V.M. KANADE, J.
DATED : 07/04/06

P.C.:-

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. This is an application for anticipatory bail. The applicant has an apprehension that he is likely to be arrested in connection with C.R.No.I-27/2006 registered at Dahanu Police Station for the offence punishable U/s.420 r/w 34 of IPC.

3. It is alleged by the complainant that she had paid Rs.15,00,000/- to her first cousin Jaikumar Bhagwandas Bafna and present applicant. Since they

had assured that they would invest said amount in various shares and other securities and in return she would get a good margin of profits from the said transaction.

4. It is the case of the applicant that Jaikumar Bafna is his brother-in-law who was dealing with shares. It is alleged that said Jaikumar Bafna was residing with present applicant since he had incurred a number of financial liabilities. It is alleged that the applicant is not concerned with any of the transactions which are executed by said Jaikumar Bafna, brother-in-law. It is alleged that there is no documentary proof to show that said amount was paid to the present applicant by the complainant.

5. Learned counsel drew my attention on the order passed by JMFC, Palghar in bail application filed by applicant No.1 Jaikumar Bafna. Learned Magistrate has observed that there was no record to indicate that the amount was paid by the complainant to the accused. Said Jaikumar Bafna was released on bail by Learned Magistrate after he had completed 15 days police custody.

6. Learned APP on the other had drew my attention on the statement of Jaikumar Bafna wherein he had admitted that he alongwith present applicant received the said amount from the complainant.

7. In my view, said statement is not admissible in evidence since it is recorded during investigation in the police station. Since, there is no record to indicate that said amount had been paid by the complainant, in my view, present applicant is entitled to be released on bail.

8. The applicant, therefore, in the event of arrest in connection with C.R.No.I-27/2006 registered at Dahanu Police Station for the offence punishable U/s.420 r/w 34 of IPC, be released on bail in sum of Rs.10,000/- with one or two sureties in like amount. Applicant shall co-operate with police and shall report to Dahanu Police Station as and when called and after chargesheet is filed, he shall report to the Dahanu Police station once in a month.

9. The application is accordingly disposed of.

V.M. KANADE J.